

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 151

Introduced by Senator Burton

(Coauthors: Senators Aanestad, Kuehl, and Torlakson)

*(Coauthors: Assembly Members Berg, Canciamilla, Cohn, Dymally,
Leno, and Lowenthal)*

February 7, 2003

An act to amend *Section 11165 of, and to amend, repeal, and add Sections 11164, ~~11165~~, 11165.1, ~~11167~~, and ~~11167.5~~ and 11167* of, and to *amend and* repeal Sections 11161, 11162.5, *11167.5*, and 11169 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 151, as amended, Burton. Controlled substances: Schedule II.

Existing law provides that no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with specified requirements, one of which is that prescriptions for Schedule II controlled substances shall be prepared in triplicate. Existing law also provides for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified. The CURES program is scheduled to become inoperative on July 1, 2008, and repealed on January 1, 2009. *Existing law provides that a violation of any of these provisions is generally a misdemeanor.*

This bill would, *on and after July 1, 2004*, eliminate the triplicate prescription requirement for Schedule II controlled substances. ~~The bill would~~, require prescribers of Schedule II controlled substances to meet the same prescription requirements imposed with respect to other

prescribable controlled substances, *and require prescriptions for any controlled substance to be issued on a secure forgery-resistant prescription paper. The prescription paper and vendor producing that paper would have to meet specified criteria established by the appropriate state board.* The bill would also provide for the indefinite continuation of the CURES program by deleting its repeal date. The bill would make conforming changes to related provisions. *By creating new crimes the bill would impose a state-mandated local program upon local government.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 11161 of the Health and Safety Code is~~
- 2 ~~repealed.~~
- 3 ~~SEC. 2.—Section 11162.5 of the Health and Safety Code is~~
- 4 ~~repealed.~~
- 5 ~~SEC. 3.—Section 11164 of the Health and Safety Code is~~
- 6 ~~amended to read:~~
- 7 ~~11164.—Except as provided in Section 11167, no person shall~~
- 8 ~~prescribe a controlled substance, nor shall any person fill,~~
- 9 ~~compound, or dispense a prescription for a controlled substance~~
- 10 ~~unless it complies with the requirements of this section.~~
- 11 ~~(a)—Each prescription for a controlled substance classified in~~
- 12 ~~Schedule II, III, IV, or V, except as authorized by subdivision (b),~~
- 13 ~~shall be subject to the following requirements:~~
- 14 ~~(1) The prescription shall be signed and dated by the prescriber~~
- 15 ~~and shall contain the name of the person for whom the controlled~~
- 16 ~~substance is prescribed, the name and quantity of the controlled~~
- 17 ~~substance prescribed, and directions for use. With respect to~~
- 18 ~~prescriptions for controlled substances classified in Schedules II,~~
- 19 ~~III and IV, the signature, date, and information required by this~~

1 paragraph shall be wholly written in ink or indelible pencil in the
2 handwriting of the prescriber.

3 (2) In addition, the prescription shall contain the name,
4 address, telephone number, category of professional licensure, and
5 federal controlled substance registration number of the prescriber.
6 The information required by this paragraph shall be either
7 preprinted upon the prescription blank, typewritten, rubber
8 stamped, or printed by hand. Notwithstanding any provision in this
9 section, the prescriber's address, telephone number, category of
10 professional licensure, or federal controlled substances
11 registration number need not appear on the prescription if that
12 information is readily retrievable in the pharmacy.

13 (3) The prescription shall also contain the address of the person
14 for whom the controlled substance is prescribed. If the prescriber
15 does not specify this address on the prescription, the pharmacist
16 filling the prescription or an employee acting under the direction
17 of the pharmacist shall write or type the address on the prescription
18 or maintain this information in a readily retrievable form in the
19 pharmacy.

20 (b) Any controlled substance classified in Schedule III, IV, or
21 V may be dispensed upon an oral or electronically transmitted
22 prescription, which shall be reduced to writing by the pharmacist
23 filling the prescription or by any other person expressly authorized
24 by provisions of the Business and Professions Code. The date of
25 issue of the prescription and all the information required for a
26 written prescription by subdivision (a) shall be included in the
27 written record of the prescription. The pharmacist need not reduce
28 to writing the address, telephone number, license classification, or
29 federal registry number of the prescriber or the address of the
30 patient if that information is readily retrievable in the pharmacy.
31 Pursuant to authorization of the prescriber, any employee of the
32 prescriber on behalf of the prescriber may orally or electronically
33 transmit a prescription for a controlled substance classified in
34 Schedule III, IV, or V, if in these cases the written record of the
35 prescription required by this subdivision specifies the name of the
36 employee of the prescriber transmitting the prescription.

37 (c) The use of commonly used abbreviations shall not
38 invalidate an otherwise valid prescription.

39 (d) Notwithstanding any provision of subdivisions (a) and (b),
40 prescriptions for a controlled substance classified in Schedule V

1 ~~may be for more than one person in the same family with the same~~
2 ~~medical need.~~

3 ~~SEC. 4.~~

4 *SECTION 1. It is the intent of the Legislature in enacting this*
5 *act that the requirement of Chapter 4 (commencing with Section*
6 *11150) of Division 10 of the Health and Safety Code that*
7 *prescriptions for controlled substances classified in Schedule II*
8 *shall be prepared in triplicate shall, on and after July 1, 2004, be*
9 *replaced by the requirement that prescriptions for controlled*
10 *substances classified in Schedule II, III, IV, and V shall be*
11 *prepared on secure forgery resistant prescription paper.*

12 *SEC. 2. Section 11161 of the Health and Safety Code is*
13 *amended to read:*

14 11161. (a) Prescription blanks shall be issued by the
15 Department of Justice in serially numbered groups of not more
16 than 100 forms each in triplicate unless a practitioner orally,
17 electronically, or in writing requests a larger amount, and shall be
18 furnished to any practitioner authorized to write a prescription for
19 controlled substances classified in Schedule II. The Department of
20 Justice may charge a fee for the prescription blanks sufficient to
21 reimburse the department for the actual costs associated with the
22 preparation, processing, and filing of any forms issued pursuant to
23 this section. The prescription blanks shall not be transferable. Any
24 person possessing a triplicate prescription blank otherwise than as
25 provided in this section is guilty of a misdemeanor.

26 (b) When a practitioner is named in a warrant of arrest or is
27 charged in an accusatory pleading with a felony violation of
28 Section 11153, 11154, 11156, 11157, 11170, 11173, 11350, 11351,
29 11352, 11353, 11353.5, 11377, 11378, 11378.5, 11379, 11379.5,
30 or 11379.6, the court in which the accusatory pleading is filed or
31 the magistrate who issued the warrant of arrest shall, upon the
32 motion of a law enforcement agency which is supported by
33 reasonable cause, issue an order which requires the practitioner to
34 surrender to the clerk of the court all triplicate prescription blanks
35 in the practitioner's possession at a time set in the order and shall
36 direct the Department of Justice to withhold prescription blanks
37 from the practitioner. The law enforcement agency obtaining the
38 order shall notify the Department of Justice of this order. Except
39 as provided in subdivisions (c) and (f) of this section, the order
40 shall remain in effect until further order of the court. Any

1 practitioner possessing prescription blanks in violation of the
2 order is guilty of a misdemeanor.

3 (c) The order provided by subdivision (b) shall be vacated if the
4 court or magistrate finds that the underlying violation or violations
5 are not supported by reasonable cause at a hearing held within two
6 court days after the practitioner files and personally serves upon
7 the prosecuting attorney and the law enforcement agency that
8 obtained the order, a notice of motion to vacate the order with any
9 affidavits on which the practitioner relies. At the hearing, the
10 burden of proof, by a preponderance of the evidence, is on the
11 prosecution. Evidence presented at the hearing shall be limited to
12 the warrant of arrest with supporting affidavits, the motion to
13 require the defendant to surrender all triplicate prescription blanks
14 with supporting affidavits, the sworn complaint together with any
15 documents or reports incorporated by reference thereto which, if
16 based on information and belief, state the basis for the information,
17 or any other documents of similar reliability as well as affidavits
18 and counter affidavits submitted by the prosecution and defense.
19 Granting of the motion to vacate the order is no bar to prosecution
20 of the alleged violation or violations.

21 (d) The defendant may elect to challenge the order issued under
22 subdivision (b) at the preliminary examination. At that hearing, the
23 evidence shall be limited to that set forth in subdivision (c) and any
24 other evidence otherwise admissible at the preliminary
25 examination.

26 (e) If the practitioner has not moved to vacate the order issued
27 under subdivision (b) by the time of the preliminary examination
28 and he or she is held to answer on the underlying violation or
29 violations, the practitioner shall be precluded from afterwards
30 moving to vacate the order. If the defendant is not held to answer
31 on the underlying charge or charges at the conclusion of the
32 preliminary examination, the order issued under subdivision (b)
33 shall be vacated.

34 (f) Notwithstanding subdivision (e), any practitioner who is
35 diverted pursuant to Chapter 2.5 (commencing with Section 1000)
36 of Title 7 of Part 2 of the Penal Code may file a motion to vacate
37 the order issued under subdivision (b).

38 (g) *This section shall become inoperative on July 1, 2004, and,*
39 *as of January 1, 2005, is repealed.*

1 *SEC. 3. Section 11162.5 of the Health and Safety Code is*
2 *amended to read:*

3 11162.5. (a) Every person who counterfeits a prescription
4 blank purporting to be an official prescription blank prepared and
5 issued pursuant to Section 11161, or knowingly possesses more
6 than three such counterfeited prescription blanks, shall be
7 punished by imprisonment in the state prison or by imprisonment
8 in the county jail for not more than one year.

9 (b) Every person who knowingly possesses three or fewer
10 counterfeited prescription blanks purporting to be official
11 prescription blanks prepared and issued pursuant to Section 11161,
12 shall be guilty of a misdemeanor punishable by imprisonment in
13 the county jail not exceeding six months, or by a fine not exceeding
14 one thousand dollars (\$1,000), or by both.

15 (c) *This section shall become inoperative on July 1, 2004, and,*
16 *as of January 1, 2005, is repealed.*

17 *SEC. 4. Section 11164 of the Health and Safety Code is*
18 *amended to read:*

19 11164. Except as provided in Section 11167, no person shall
20 prescribe a controlled substance, nor shall any person fill,
21 compound, or dispense a prescription for a controlled substance
22 unless it complies with the requirements of this section.

23 (a) The signature on each prescription for a controlled
24 substance classified in Schedule II shall be wholly written in ink
25 or indelible pencil in the handwriting of the prescriber upon the
26 official prescription form issued by the Department of Justice.
27 Each prescription shall be prepared in triplicate, signed by the
28 prescriber, and shall contain, either typewritten or handwritten by
29 the prescriber or his or her employee, the date, name, and address
30 of the person for whom the controlled substance is prescribed, the
31 name, quantity, and strength of the controlled substance
32 prescribed, directions for use, and the address, category of
33 professional licensure, and the federal controlled substance
34 registration number of the prescriber. The original and duplicate
35 of the prescription shall be delivered to the pharmacist filling the
36 prescription. The duplicate shall be retained by the pharmacist and
37 the original, properly endorsed by the pharmacist with the name
38 and address of the pharmacy, the pharmacy's state license number,
39 the date the prescription was filled and the signature of the
40 pharmacist, shall be transmitted to the Department of Justice at the

1 end of the month in which the prescription was filled. Upon receipt
2 of an incompletely prepared official prescription form of the
3 Department of Justice, the pharmacist may enter on the face of the
4 prescription the address of the patient. A pharmacist may fill a
5 prescription for a controlled substance classified in Schedule II
6 containing an error or errors, if the pharmacist notifies the
7 prescriber of the error or errors and the prescriber approves any
8 correction. The prescriber shall fax or mail a corrected
9 prescription to the pharmacist within seven days of the
10 prescription being dispensed.

11 (b) Each prescription for a controlled substance classified in
12 Schedule III, IV, or V, except as authorized by subdivision (c),
13 shall be subject to the following requirements:

14 (1) The prescription shall be signed and dated by the prescriber
15 and shall contain the name of the person for whom the controlled
16 substance is prescribed, the name and quantity of the controlled
17 substance prescribed, and directions for use. With respect to
18 prescriptions for controlled substances classified in Schedules III
19 and IV, the signature, date, and information required by this
20 paragraph shall be wholly written in ink or indelible pencil in the
21 handwriting of the prescriber.

22 (2) In addition, the prescription shall contain the name,
23 address, telephone number, category of professional licensure, and
24 federal controlled substance registration number of the prescriber.
25 The information required by this paragraph shall be either
26 preprinted upon the prescription blank, typewritten, rubber
27 stamped, or printed by hand. Notwithstanding any provision in this
28 section, the prescriber's address, telephone number, category of
29 professional licensure, or federal controlled substances
30 registration number need not appear on the prescription if that
31 information is readily retrievable in the pharmacy.

32 (3) The prescription shall also contain the address of the person
33 for whom the controlled substance is prescribed. If the prescriber
34 does not specify this address on the prescription, the pharmacist
35 filling the prescription or an employee acting under the direction
36 of the pharmacist shall write or type the address on the prescription
37 or maintain this information in a readily retrievable form in the
38 pharmacy.

39 (c) Any controlled substance classified in Schedule III, IV, or
40 V may be dispensed upon an oral or electronically transmitted

1 prescription, which shall be reduced to writing by the pharmacist
2 filling the prescription or by any other person expressly authorized
3 by provisions of the Business and Professions Code. The date of
4 issue of the prescription and all the information required for a
5 written prescription by subdivision (b) shall be included in the
6 written record of the prescription. The pharmacist need not reduce
7 to writing the address, telephone number, license classification, or
8 federal registry number of the prescriber or the address of the
9 patient if that information is readily retrievable in the pharmacy.
10 Pursuant to authorization of the prescriber, any employee of the
11 prescriber on behalf of the prescriber may orally or electronically
12 transmit a prescription for a controlled substance classified in
13 Schedule III, IV, or V, if in these cases the written record of the
14 prescription required by this subdivision specifies the name of the
15 employee of the prescriber transmitting the prescription.

16 (d) The use of commonly used abbreviations shall not
17 invalidate an otherwise valid prescription.

18 (e) Notwithstanding any provision of subdivisions (b) and (c),
19 prescriptions for a controlled substance classified in Schedule V
20 may be for more than one person in the same family with the same
21 medical need.

22 (f) In addition to the prescriber's record required by Section
23 11190, any practitioner dispensing a controlled substance
24 classified in Schedule II in accordance with subdivision (b) of
25 Section 11158 shall prepare a written record thereof on the official
26 forms issued by the Department of Justice, pursuant to Section
27 11161, and shall transmit the original to the Department of Justice
28 in accordance with any rules that the department may adopt for
29 completion and transmittal of the forms.

30 (g) *This section shall become inoperative on July 1, 2004, and,*
31 *as of January 1, 2005, is repealed.*

32 SEC. 5. *Section 11164 is added to the Health and Safety Code,*
33 *to read:*

34 *11164. Except as provided in Section 11167, no person shall*
35 *prescribe a controlled substance, nor shall any person fill,*
36 *compound, or dispense a prescription for a controlled substance*
37 *unless it complies with the requirements of this section.*

38 (a) *Each prescription for a controlled substance classified in*
39 *Schedule II, III, IV, or V shall be written on a secure forgery*
40 *resistant prescription paper.*

1 ***(b) Both the prescription paper and the vendor producing that***
2 ***paper shall meet specified criteria established by the appropriate***
3 ***state board.***

4 ***(c) This section shall become operative on July 1, 2004.***

5 **SEC. 6.** Section 11165 of the Health and Safety Code is
6 amended to read:

7 11165. (a) To assist law enforcement and regulatory agencies
8 in their efforts to control the diversion and resultant abuse of
9 Schedule II controlled substances, and for statistical analysis,
10 education, and research, the Department of Justice shall,
11 contingent upon the availability of adequate funds from the
12 Contingent Fund of the Medical Board of California, the
13 Pharmacy Board Contingent Fund, the State Dentistry Fund, and
14 the Osteopathic Medical Board of California Contingent Fund,
15 establish the Controlled Substance Utilization Review and
16 Evaluation System (CURES) for the electronic monitoring of the
17 prescribing and dispensing of Schedule II controlled substances by
18 all practitioners authorized to prescribe or dispense these
19 controlled substances. CURES shall be implemented as a pilot
20 project, commencing on July 1, 1997, to be administered
21 concurrently with the existing triplicate prescription process, to
22 examine the comparative efficiencies between the two systems.

23 (b) The CURES pilot project shall operate under existing
24 provisions of law to safeguard the privacy and confidentiality of
25 patients. Data obtained from CURES shall only be provided to
26 appropriate state, local, and federal persons or public agencies for
27 disciplinary, civil, or criminal purposes and to other agencies or
28 entities, as determined by the Department of Justice, for the
29 purpose of educating practitioners and others in lieu of
30 disciplinary, civil, or criminal actions. Data may be provided to
31 public or private entities, as approved by the Department of
32 Justice, for educational, peer review, statistical, or research
33 purposes, provided that patient information, including any
34 information that may identify the patient, is not compromised.
35 Further, data disclosed to any individual or agency as described in
36 this subdivision, shall not be disclosed, sold, or transferred to any
37 third party.

38 ~~SEC. 5. Section 11165.1 of the Health and Safety Code is~~
39 ~~amended to read:~~

~~11165.1. (a) (1) A licensed health care practitioner authorized to write a prescription for controlled substances classified in Schedule II or a pharmacist may make a written request for, and the Department of Justice may release to that practitioner or pharmacist, the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.~~

~~(2) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.~~

~~(b) In order to prevent the inappropriate, improper, or illegal use of Schedule II controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.~~

~~(c) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.~~

~~SEC. 6. Section 11167 of the Health and Safety Code is amended to read:~~

~~11167. Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a prescription may result in loss of life or intense suffering, an order for a Schedule II controlled substance may be dispensed on an oral, written, or electronic data transmission order, subject to all of the following requirements:~~

~~(a) The order contains all information required by subdivision (a) of Section 11164.~~

~~(b) Any written order is signed and dated by the prescriber in indelible pencil or ink, and the pharmacy reduces any oral or electronic data transmission order to writing prior to actually dispensing the controlled substance.~~

~~SEC. 7. Section 11167.5 of the Health and Safety Code is amended to read:~~

~~11167.5.—(a) An order for a controlled substance classified in Schedule II in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health agency providing hospice care may be dispensed upon an oral or electronically transmitted prescription. Prior to filling the prescription, the pharmacist shall reduce it to writing in ink or indelible pencil in the handwriting of the pharmacist upon an official prescription form issued by the Department of Justice for that purpose. The prescriptions shall contain the date the prescription was orally or electronically transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed facility or home health agency providing hospice care in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, and federal controlled substance registration number of the prescriber. The prescription shall be properly endorsed by the pharmacist with the pharmacy's state license number, the signature of the pharmacist, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed facility or home health agency providing hospice care and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. A skilled nursing facility, intermediate care facility, or licensed home health agency providing hospice care shall forward to the dispensing pharmacist a copy of any signed telephone orders, chart orders, or related documentation substantiating each oral or electronically transmitted prescription transaction under this section.~~

~~(b) For the purposes of this section, "hospice care" means interdisciplinary health care which is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of a terminal disease and to provide supportive care for the primary care person and the family of the patient under hospice care.~~

~~SEC. 8.—Section 11169 of the Health and Safety Code is repealed.~~

~~SEC. 7. Section 11165.1 of the Health and Safety Code is amended to read:~~

~~11165.1. (a) (1) A licensed health care practitioner eligible to obtain triplicate prescription forms pursuant to Section 11161~~

1 or a pharmacist may make a written request for, and the
2 Department of Justice may release to that practitioner or
3 pharmacist, the history of controlled substances dispensed to an
4 individual under his or her care based on data contained in
5 CURES.

6 (2) Any request for, or release of, a controlled substance history
7 pursuant to this section shall be made in accordance with
8 guidelines developed by the Department of Justice.

9 (b) In order to prevent the inappropriate, improper, or illegal
10 use of Schedule II controlled substances, the Department of Justice
11 may initiate the referral of the history of controlled substances
12 dispensed to an individual based on data contained in CURES to
13 licensed health care practitioners, pharmacists, or both, providing
14 care or services to the individual.

15 (c) The history of controlled substances dispensed to an
16 individual based on data contained in CURES that is received by
17 a practitioner or pharmacist from the Department of Justice
18 pursuant to this section shall be considered medical information
19 subject to the provisions of the Confidentiality of Medical
20 Information Act contained in Part 2.6 (commencing with Section
21 56) of Division 1 of the Civil Code.

22 (d) This section shall become inoperative on July 1, ~~2008~~ 2004,
23 and, as of January 1, ~~2009~~ 2005, is repealed, ~~unless a later enacted~~
24 ~~statute that is enacted before January 1, 2009, deletes or extends~~
25 ~~the dates on which it becomes inoperative and is repealed.~~

26 SEC. 8. *Section 11165.1 is added to the Health and Safety*
27 *Code, to read:*

28 *11165.1. (a) (1) A licensed health care practitioner*
29 *authorized to write a prescription for controlled substances*
30 *classified in Schedule II or a pharmacist may make a written*
31 *request for, and the Department of Justice may release to that*
32 *practitioner or pharmacist, the history of controlled substances*
33 *dispensed to an individual under his or her care based on data*
34 *contained in CURES.*

35 (2) Any request for, or release of, a controlled substance history
36 pursuant to this section shall be made in accordance with
37 guidelines developed by the Department of Justice.

38 (b) In order to prevent the inappropriate, improper, or illegal
39 use of Schedule II controlled substances, the Department of Justice
40 may initiate the referral of the history of controlled substances

1 dispensed to an individual based on data contained in CURES to
2 licensed health care practitioners, pharmacists, or both, providing
3 care or services to the individual.

4 (c) The history of controlled substances dispensed to an
5 individual based on data contained in CURES that is received by
6 a practitioner or pharmacist from the Department of Justice
7 pursuant to this section shall be considered medical information
8 subject to the provisions of the Confidentiality of Medical
9 Information Act contained in Part 2.6 (commencing with Section
10 56) of Division 1 of the Civil Code.

11 (d) This section shall become operative on July 1, 2004, and
12 shall become inoperative on July 1, 2008, and, as of January 1,
13 2009, is repealed, unless a later enacted statute that is enacted
14 before January 1, 2009, deletes or extends the dates on which it
15 becomes inoperative and is repealed.

16 SEC. 9. Section 11167 of the Health and Safety Code is
17 amended to read:

18 11167. Notwithstanding subdivision (a) of Section 11164, in
19 an emergency where failure to issue a prescription may result in
20 loss of life or intense suffering, an order for a Schedule II
21 controlled substance may be dispensed on an oral, written, or
22 electronic data transmission order, subject to all of the following
23 requirements:

24 (a) The order contains all information required by subdivision
25 (a) of Section 11164.

26 (b) Any written order is signed and dated by the prescriber in
27 indelible pencil or ink, and the pharmacy reduces any oral or
28 electronic data transmission order to writing prior to actually
29 dispensing the controlled substance.

30 (c) The prescriber provides a triplicate prescription, completed
31 as provided by subdivision (a) of Section 11164, by the seventh
32 day following the transmission of the initial order; a postmark by
33 the seventh day following transmission of the initial order shall
34 constitute compliance.

35 (d) If the prescriber fails to comply with subdivision (c), the
36 pharmacy shall so notify the Bureau of Narcotic Enforcement in
37 writing within 144 hours of the prescriber's failure to do so and
38 shall make and retain a written, readily retrievable record of the
39 prescription, including the date and method of notification of the
40 Bureau of Narcotic Enforcement.

1 (e) *This section shall become inoperative on July 1, 2004, and,*
2 *as of January 1, 2005, is repealed.*

3 SEC. 10. *Section 11167 is added to the Health and Safety*
4 *Code, to read:*

5 11167. *Notwithstanding subdivision (a) of Section 11164, in*
6 *an emergency where failure to issue a prescription may result in*
7 *loss of life or intense suffering, an order for a Schedule II*
8 *controlled substance may be dispensed on an oral, written, or*
9 *electronic data transmission order, subject to all of the following*
10 *requirements:*

11 (a) *The order contains all information required by subdivision*
12 *(a) of Section 11164.*

13 (b) *Any written order is signed and dated by the prescriber in*
14 *indelible pencil or ink, and the pharmacy reduces any oral or*
15 *electronic data transmission order to writing prior to actually*
16 *dispensing the controlled substance.*

17 (c) *This section shall become operative on July 1, 2004.*

18 SEC. 11. *Section 11167.5 of the Health and Safety Code is*
19 *amended to read:*

20 11167.5. (a) *An order for a controlled substance classified in*
21 *Schedule II in a licensed skilled nursing facility, an intermediate*
22 *care facility, or a licensed home health agency providing hospice*
23 *care may be dispensed upon an oral or electronically transmitted*
24 *prescription. Prior to filling the prescription, the pharmacist shall*
25 *reduce it to writing in ink or indelible pencil in the handwriting of*
26 *the pharmacist upon an official prescription form issued by the*
27 *Department of Justice for that purpose. The prescriptions shall be*
28 *prepared in triplicate and shall contain the date the prescription*
29 *was orally or electronically transmitted by the prescriber, the name*
30 *of the person for whom the prescription was authorized, the name*
31 *and address of the licensed facility or home health agency*
32 *providing hospice care in which that person is a patient, the name*
33 *and quantity of the controlled substance prescribed, the directions*
34 *for use, and the name, address, category of professional licensure,*
35 *and federal controlled substance registration number of the*
36 *prescriber. The duplicate shall be retained by the pharmacist, and*
37 *the triplicate shall be forwarded to the prescriber by the end of the*
38 *month in which the prescription was issued. The original shall be*
39 *properly endorsed by the pharmacist with the pharmacy's state*
40 *license number, the signature of the pharmacist, the name and*

address of the pharmacy, and the signature of the person who received the controlled substances for the licensed facility or home health agency providing hospice care and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. A skilled nursing facility, intermediate care facility, or licensed home health agency providing hospice care shall forward to the dispensing pharmacist a copy of any signed telephone orders, chart orders, or related documentation substantiating each oral or electronically transmitted prescription transaction under this section.

(b) For the purposes of this section, “hospice care” means interdisciplinary health care which is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of a terminal disease and to provide supportive care for the primary care person and the family of the patient under hospice care.

(c) *This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.*

SEC. 12. *Section 11169 of the Health and Safety Code is amended to read:*

11169. (a) When codeine, or dihydrocodeinone or tincture opii camphorata (paregoric) is not combined with other medicinal ingredients, it shall be prescribed on the official triplicate blanks.

(b) *This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.*

SEC. 13. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*